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7-11-16  
04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA**

Order Instituting Rulemaking on  
Regulations Relating to Passenger Carriers,  
Ridesharing, and New Online-Enabled  
Transportation Services.

Rulemaking 12-12-011  
(Filed December 20, 2012)

**COMMENTS OF  
THE TECHNOLOGY NETWORK (“TECHNET”)  
INTERNET ASSOCIATION  
AND THE CALIFORNIA CHAMBER OF COMMERCE  
ON THE CONCEPT OF PERSONAL VEHICLES**

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Dated: July 11, 2016

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**I. INTRODUCTION.**

In D. 13-09-045, the Commission established a comprehensive regulatory framework for ride services provided by Transportation Network Companies (“TNCs”). On April 28, 2015, the Assigned Commissioner and Administrative Law Judge issued a Scoping Memo and Ruling establishing a second phase of this proceeding (“Phase II rulemaking”). Pursuant to D.16-04-041 issued April 26, 2016, the Commission further amended the TNC regulatory framework. During this rulemaking, the Commission considered the question of whether drivers who rent or lease their vehicles on a short-term basis can use those vehicles to provide TNC services but deferred a final decision. On June 6, 2016, the Assigned Commissioner issued the *Assigned Commissioner’s Ruling Inviting Party Comments on the Concept of Personal Vehicles* (“Ruling”) inviting interested parties to submit opening comments by June 27, 2016. The deadline was extended by the Administrative Law Judge to July 11, 2016.

As Technology Network (“TechNet”), [www.technet.org](http://www.technet.org), has noted in this proceeding, it represents the nation’s leading technology companies in support of policies to strengthen the nation’s innovation-driven global competitiveness and encompasses sectors such as information technology, clean energy, software, hardware, mobile applications and the sharing economy.

Internet Association, [www.InternetAssociation.org](http://www.InternetAssociation.org), is the unified voice of the Internet economy and represents the interests of the America's leading Internet companies. The Internet Association is dedicated to advancing public policy solutions to strengthen and protect Internet freedom, foster innovation and economic growth, and empower users.

The California Chamber of Commerce (“CalChamber” at [www.calchamber.com](http://www.calchamber.com)) is a non-profit business association with over 13,000 members, both individual and corporate, representing virtually every economic interest in the state of California. For over 100 years, CalChamber has been the voice of California business. While CalChamber represents several of the largest corporations in California, seventy-five percent of its members have 100 or fewer employees. CalChamber acts on behalf of the business community to improve the state's economic and jobs climate, including its transportation system, by representing business on a broad range of legislative, regulatory and legal issues.

TechNet, the Internet Association and CalChamber (together the “Technology Parties”) are pleased to comment in response to the questions posed by the Assigned Commissioner in her Ruling inviting comments on the use of rented vehicles by TNC drivers. As a number of these questions are directed to operational issues best addressed by the TNCs themselves, we focus our responses on the initial four general questions posed in the Ruling.

## **II. THE COMMISSION SHOULD CONTINUE TO PROTECT PUBLIC SAFETY IN A MANNER THAT PROMOTES INNOVATION IN RIDESHARING.**

As a threshold matter, in addressing this and other TNC issues, the Technology Parties observe that the Commission in its original decision establishing a comprehensive regulatory framework for TNCs, endeavored to strike the “proper balance between safety and innovation, so that regulation provides a safety net that the public can rely on for its protection while new businesses innovate and use technology to better the lives of Californians.”<sup>1</sup>

This framework has been extraordinarily successful in enabling the development of technology-enabled transportation services with broad appeal and use. Tens of thousands of Californians now drive for TNCs to supplement paychecks, adding hundreds of millions of dollars to California’s economic activity. Communities across the state enjoy much improved

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<sup>1</sup>D 13-09-045, California Public Utilities Commission, April 28, 2015, p. 62.

point-to-point service, which is increasingly coordinated with public transit and other transportation modes. Millions of rides have been shared among multiple parties and provided at costs often more economical than previously available. Innovation in the personal transportation industry has provided enormous benefits and offers the State the opportunity to boost carpooling and address a host of serious, long-term environmental challenges.

As one of the objectives of the Commission's successful policy is continued innovation, the balancing test also implies a presumption against proposals that do not demonstrably advance public safety. The Technology Parties share the Commission's interest in fully protecting public safety but believe that the core issue needs to be a focus on TNC compliance with existing safety rules. Restricting the use of rentals or establishing an arbitrary minimum on the term for which rented or lease vehicles may be used to provide TNC services, for example, is not necessary for a TNC that has complied with these and other safety rules

### **III. BECAUSE USE OF RENTALS OR SHORT-TERM LEASES WILL NOT COMPROMISE PUBLIC SAFETY OR ANY OTHER PUBLIC POLICY OBJECTIVES, THEIR USE SHOULD NOT BE RESTRICTED.**

The Technology Parties submit the following responses to the specific questions posed in the Ruling:

*Question 1: Are there any safety or other public-policy concerns that would arise if a TNC driver were allowed to lease or rent a vehicle to provide TNC services? If so: Describe these safety or other public-policy concerns with specificity and with reference to any applicable Commission decision, ruling, general order, state statute, state decisional law, federal decisional law, federal statute, or research that supports each of your concerns; and How can the Commission best address these safety or other public-policy concerns?*

TNCs have created significant improvements in public safety, for example, cashless transactions, in-app driver/passenger/vehicle photo identification, reduced drunk driving, rigorous background checks, GPS ride tracking and electronic trip summaries, to name a few. While some incumbent transportation providers have complained about the use of personal vehicles to provide transportation, they have provided no evidence that the use of rented or leased vehicles for TNC services compromises public safety. As far as we are aware, there is none. Further, imposing an arbitrary minimum period for a rental or lease – beyond the time

needed to comply with state law or Commission rules – adds no benefit or protection of public safety and denies opportunity to Californians who do not own a vehicle.

State law and Commission rules already impose upwards of a dozen separate requirements on TNCs related to ensuring that vehicles are in safe working condition, maintaining records to ensure compliance, providing information to consumers. For example, the Commission has listed requirements like “driver training, meeting insurance requirements, a 19-point vehicle inspections performed at a California Bureau of Automotive Repair-licensed facility, and trade dress rules.”<sup>2</sup> Other relevant requirements include the requirement that the “app used by a TNC to connect drivers and passengers must display a picture of the vehicle the driver is approved to use, including the license plate number.”<sup>3</sup> Additionally, TNCs must maintain vehicle inspection records for three years.<sup>4</sup> A driver seeking to utilize the ridesharing platform must provide the requisite information and certifications to the ridesharing company, regardless of whether the vehicle is owned, rented or leased, and the TNC is already responsible for ensuring that all inspections are performed and that all PUC requirements are met.<sup>5</sup>

The Technology Parties are not aware of any instances where the use of rentals has resulted in unsafe operations or noncompliance with PUC requirements. To the contrary, one reason that drivers seek to use rentals – and use them not only for TNC services but for personal use -- is that these vehicles are typically newer and in better condition which facilitates compliance with the 19-point inspection required by the Commission. “No matter what personal vehicle arrangement a TNC driver chooses,” however, each TNC is already required to “ensure that the personal vehicle used by their drivers complies with all applicable regulations...”<sup>6</sup> The Technology Parties agree that the critical point is compliance with public safety rule. There is no added public benefit to be gained, however, by either precluding the use of rentals or leased vehicles or imposing a minimum rental or leasing period as a condition of eligibility to drive for a TNC.

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<sup>2</sup> D.16-04-041, p. 57, PU Code Section 5431 et. seq.

<sup>3</sup> D.13-09-045, p. 28

<sup>4</sup> D.16-04-041, p. 56

<sup>5</sup> D.16-04-041, p. 57

<sup>6</sup> D.16-04-041, p. 57

2. *Should there be a minimum time period in order for a leased or rented vehicle to be driven by a TNC driver to qualify as a “personal vehicle”? If so, what are the applicable statutes or decisional law that support your response?*

Neither the Public Utilities Code nor public policy considerations support a minimum time period for a rental or lease period for TNC vehicles. Whether it takes a TNC and its drivers an hour or a week to fulfill the Commission’s safety requirements, a core objective must be compliance with the Commission’s safety requirements. Establishing an arbitrary time period simply adds expense and delay to the process of onboarding drivers, with no additional benefit to safety.

While there is currently no definition in the Public Utilities Code for “personal vehicle,” the Code section applicable to charter party carriers, including TNCs, clearly contemplates and permits the use of rented vehicles in providing such services, defining a vehicle “owner” to include the person who either (1) is registered with the Department of Motor Vehicles as the owner of the vehicle, or (2) who has a legal right to possession of the vehicle *pursuant to a lease or rental agreement*.<sup>7</sup> (Italics added for emphasis). As such, there is no evidence that the Legislature ever intended to prohibit TNC drivers from using rented or leased vehicles. To the contrary, Public Utilities Code Section 5431 refers to a “participating driver” or “driver” as “any person who uses a vehicle in connection with a transportation network company’s online-enabled application or platform to connect with passengers,” making no distinction between rented, leased or owned vehicles or establishing any minimum period of rental.<sup>8</sup>

The Technology Companies agree with clarifying the definition of “personal vehicle” in the Code and are working in the Legislature to provide such clarity. AB 2763 provides that personal vehicle is one that is “owned, leased, rented or otherwise authorized for use for any period of time by the participating drive, meets all inspection and other safety requirements imposed by the commission, and is not a taxicab or limousine.”<sup>9</sup> The Assembly approved this legislation 75-2 on May 23, 2016.

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<sup>7</sup> PU Code Section 5362

<sup>8</sup> PU Code Section 5431(b)

<sup>9</sup> AB 2763 (April 18, 2016), p. 2

*3. Should the definition of a “personal vehicle” not be tied to a time period but instead be defined by authorized uses? For example, should one requirement of a “personal vehicle” be the explicit authorization of using the vehicle for TNC service in any rental or lease contract?*

The Technology Parties strongly oppose any inquiry into to the purpose for which a vehicle is rented, leased or purchased by an individual, as distinct from a corporation in the business of providing transportation. Drivers acquire vehicles for multiple uses. The vast majority of TNC drivers drive fewer than 15 hours a week. Even those who drive full time may do so for just a few weeks or months. Differentiating among these uses by private owners would amount to a monumental compliance task for benefits that have not been defined. A requirement that a rental or lease contract contain a provision explicitly authorizing a driver to perform TNC services could conceivably require drivers to renegotiate their terms if the agreements they have signed do not contain such an allowance, a restriction that would create a significant, unnecessary obstacle to those who wish to become TNC drivers.

*4. Where alternative definitions are proposed in answer to questions 2 and 3, how will a proposed definition of personal vehicle ensure adherence to the Commission’s existing safety rules regarding vehicle inspections and insurance?*

TNCs are required to ensure compliance with the Commission’s safety rules. In the absence of any showing of significant regulatory noncompliance, the Technology Parties believe it is important to give each TNC the appropriate flexibility to develop a regulatory compliance mechanisms that meet the objectives and requirements established by the Commission.

#### **IV. THE COMMISSION SHOULD PROVIDE FLEXIBILITY TO ENSURE THAT ALL COMMUNITIES BENEFIT FROM THE ECONOMIC OPPORTUNITIES CREATED BY RIDESHARING.**

Ridesharing provides people of all backgrounds with improved, readily-available economic opportunity. For example approximately 30% of the drivers for Lyft are women and 50% identify with minority groups. The income that ridesharing generates is important to households: two-thirds of ridesharing earnings are used to cover primary living expenses such as

food, rent and medical expenses. A study conducted by the Chase Foundation<sup>10</sup> focused on how participants in the on demand economy were using their earnings and found that individuals using transportation networking companies and other “gig” opportunities were primarily using them to battle significant wage fluctuations. Nationally, more than 70% of individuals between the ages of 18-24 and in the bottom income quartile experienced, on average, wage fluctuations of 30%. Importantly, this study showed that platform users, such as Uber and Lyft drivers, average income stayed flat. In other words, when their income dipped, they are able to supplement the difference so they can continue to pay for necessary costs related to their livelihood. This is a demonstrated help in offsetting the potential consequences of wage fluctuations.

The Technology Parties believe it is important that the economic opportunities afforded by ridesharing technologies be made available to any interested Californians who qualify as drivers even if they do not have the means to purchase a vehicle, or if the vehicles they own do not meet the standards required by the Commission to provide TNC services. As observed by the Urban Institute, “keeping or gaining access to automobiles is positively related to the likelihood of employment.”<sup>11</sup> While the Urban Institute study focused on car-sharing, the same conclusion is true for high-quality transportation availability generally. However, many drivers lack access to the capital to pay high purchase or lease prices for the new vehicles needed to provide ridesharing services.

Short-term rentals solve these problems by making vehicles available for low hourly rates without high upfront costs. While long-term leases require a search into the financial background of an individual, including but not limited to a credit check, short-term rentals provide individuals access to a vehicle to earn extra income even if they have a low credit score. For example, the General Motors - Lyft partnership in Chicago allows an individual to rent a vehicle on a weekly basis for a \$50 refundable deposit along with a low base pricing structure. Included in this agreement are insurance and vehicle maintenance.

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<sup>10</sup> <http://www.chasefoundation.com>

<sup>11</sup> Rolf Pendall, Christopher Hayes, et al., Driving to Opportunity: Understanding the Links among Transportation Access, Residential Outcomes and Economic Opportunity for Housing Voucher Recipients (Urban Institute, March 2014). <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/413078-Driving-to-Opportunity-Understanding-the-Links-among-Transportation-Access-Residential-Outcomes-and-Economic-Opportunity-for-Housing-Voucher-Recipients.PDF>



Some of these services are leveraging the growth in ridesharing to build awareness of the advantages and capabilities of electric vehicles (or other clean vehicles), a development that could help California not only create broader economic opportunity but also meet the Governor's goal of putting 1.5 million zero emission vehicles on the road. For example, services like Los Angeles-based Evercar, which rents electric vehicles to those who want to drive for TNCs, offer a way of making clean vehicles available to all. To ensure that all communities can benefit, the Commission should avoid limiting the opportunities for individuals who may not own a car but who are otherwise qualified and wish to provide ridesharing services.

**V. CONCLUSION.**

For the reasons stated herein, we urge the Commission to continue to affirm the use of rentals and short-term leases by drivers seeking to perform TNC services.

Dated: July 11, 2016

respectfully submitted,

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